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Attorneys for Plaintiff
Lumileds Lighting U.S., LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LUMILEDS LIGHTING U.S., LLC,

Plaintiff,

vs.

EPISTAR CORP., and UNITED
EPITAXY CO., LTD.,

Defendants.

CONFIRMED AND RETURNED

NOV 04 2005

CLERK OF COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

E-FILING

C05 Case No. **04521**

**COMPLAINT FOR PATENT
INFRINGEMENT**

MEJ

JURY TRIAL DEMANDED

1 Plaintiff Lumileds Lighting U.S., LLC ("Lumileds") for its complaint against Defendant
2 Epistar Corp. ("Epistar") and Defendant United Epitaxy Co., Ltd. ("UEC"), alleges:

3 **PARTIES**

4 1. Lumileds is a Delaware corporation, having a principal place of business at 370
5 West Trimble Road, San Jose, California 95131.

6 2. On information and belief, Epistar is a foreign corporation, having its principal
7 place of business at 5 Li-Hsin 5th Road, Science-Based Industrial Park, Hsinchu, Taiwan, R.O.C.

8 3. On information and belief, Epistar sells and offers to sell its LED (light-emitting
9 diode) products outside of the United States for importation into the United States (including
10 California) or for inclusion in products that are imported into the United States (including
11 California), imports those products into the United States (including California), and/or sells or
12 offers to sell those products directly into the United States (including California).

13 4. On information and belief, UEC is a foreign corporation, having its principal
14 place of business at 9F, No. 10, Li-Hsin Road, Science-Based Industrial Park, Hsinchu, Taiwan,
15 R.O.C.

16 5. On information and belief, UEC sells and offers to sell its LED products outside
17 of the United States for importation into the United States (including California) or for inclusion
18 in products that are imported into the United States (including California), imports those
19 products into the United States (including California), and/or sells or offers to sell those products
20 directly into the United States (including California).

21 **JURISDICTION AND VENUE**

22 6. This Court has subject matter jurisdiction in this action arising under the Patent
23 Laws of the United States pursuant to 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this
24 district under 28 U.S.C. §§ 1391(b)-(d) and 1400(b).

25 **INTRADISTRICT ASSIGNMENT**

26 7. This case concerns three Lumileds patents, including U. S. Patent No. 5,008,718
27 (filed December 18, 1989) ("the '718 patent").
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8. The '718 patent has been previously asserted by Lumileds against UEC in the lawsuit *United Epitaxy Co., Ltd. v. Hewlett-Packard Co., et al.*, No. C 00-2518 (N.D. Cal.) (Wilken, J.) (settled August 30, 2001).

9. The '718 patent has been previously asserted by Lumileds against Epistar in the lawsuit *Lumileds Lighting U.S., LLC v. Epistar Corp.*, No. C 02-5077 CW (PVT) (N.D. Cal.) (Wilken, J.) (settled June 30, 2004), which was transferred to Judge Wilken because it was related to the UEC litigation. The '718 patent was also previously asserted in *Epistar Corp. v. Lumileds Lighting U.S., LLC*, No. C 03-01130 (HRL), which was transferred from the United States District Court for the Central District of California and consolidated before Judge Wilken with Case No. C 02-5077.

PATENT INFRINGEMENT

10. Lumileds is the owner of the entire right, title, and interest in and to the '718 patent, a true copy of which is attached hereto as Exhibit A. The '718 patent discloses and claims subject matter generally relating to AlGaInP LEDs.

11. Lumileds is the owner of the entire right, title, and interest in and to U. S. Patent No. 5,376,580 (filed March 19, 1993) ("the '580 patent"), a true copy of which is attached hereto as Exhibit B. The '580 patent discloses and claims subject matter generally relating to LEDs made using wafer bonding techniques.

12. Lumileds is the owner of the entire right, title, and interest in and to U. S. Patent No. 5,502,316 (filed October 12, 1995) ("the '316 patent"), a true copy of which is attached hereto as Exhibit C. The '316 patent discloses and claims subject matter generally relating to methods of making LEDs using wafer bonding techniques.

13. On information and belief, UEC is and has been infringing claims of the '718, '580, and '316 patents (collectively "Patents-in-Suit") by making, using, selling, offering for sale, and/or importing into the United States devices which include or comprise products that embody the claimed subject matter of the Patents-in-Suit, including but not limited to those bearing the designations GB014SOL-AU, GB014SYM-AU, GB014SYS-AU, MB012SOL-AU, MB012SYM-AU, MB014SOL, MB014SYM-AU-01, MB028SOL-AU-02, MB028SYM,

1 MB042SOL-AU-03, and MB042SOL-AU-04. On information and belief, some of these
2 activities take place in the United States, in California, and in this District.

3 14. On information and belief, UEC is and has been engaged in actions constituting
4 contributory and/or inducement of infringement of claims of the Patents-in-Suit.

5 15. On information and belief, UEC knows and has known that its products embody
6 the claimed subject matter of the Patents-in-Suit, and that its actions constitute direct and/or
7 indirect infringement of claims of the Patents-in-Suit. Accordingly, UEC's infringement of the
8 Patents-in-Suit has been deliberate and willful.

9 16. On information and belief, Epistar is and has been infringing claims of the '580
10 and '316 patents by making, using, selling, offering for sale, and/or importing into the United
11 States devices which include or comprise products that embody the claimed subject matter of the
12 '580 and '316 patents, including but not limited to those bearing the designations ES-SAYL812,
13 ES-SAHR812, ES-SASO812, ES-SAYL814, ES-SAHR814, ES-SASO814, ES-SAYL822, ES-
14 SAHR822, ES-SASO822, ES-SAYL830, ES-SAHR830, ES-SASO830, ES-SAYL840, ES-
15 SAHR840 and ES-SASO840. On information and belief, some of these activities take place in
16 the United States, in California, and in this District.

17 17. On information and belief, Epistar is and has been engaged in actions constituting
18 contributory and/or inducement of infringement of claims of the '580 and '316 patents.

19 18. On information and belief, Epistar knows and has known that its products embody
20 the claimed subject matter of the '580 and '316 patents, and that its actions constitute direct
21 and/or indirect infringement of claims of the '580 and '316 patents. Accordingly, Epistar's
22 infringement of claims of the '580 and '316 patents has been deliberate and willful.

23 19. Unless enjoined by this Court, the Defendants will continue their acts of
24 infringement causing substantial and irreparable harm to Lumileds.

25 20. This is an exceptional case within the meaning of 35 U.S.C. § 285, and Lumileds
26 is accordingly entitled to an award of reasonable attorneys' fees.

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1 WHEREFORE, Lumileds demands judgment:

2 A. Permanently enjoining and restraining the Defendants, their officers, directors,
3 employees, agents, servants, successors and assigns, and any and all persons acting in privity or in
4 concert with the Defendants, from further infringement of the Patents-in-Suit;

5 B. Assessing against Defendants and awarding to Lumileds damages sufficient to
6 compensate for Defendants' infringement of the patents-in-suit, and conducting an accounting to
7 determine the damages;

8 C. Increasing the damages to three times the amount found or assessed;

9 D. Awarding Lumileds its costs and disbursements in this action, including
10 reasonable attorneys' fees; and

11 E. Granting to Lumileds such other and further relief as this Court may deem just and
12 proper.

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14 **DEMAND FOR JURY TRIAL**

15 Plaintiff Lumileds hereby requests a trial by jury.

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18 **CERTIFICATION AND DISCLOSURE OF**
19 **NON-PARTY INTERESTED ENTITIES OR PERSONS**

20 Pursuant to Civil L.R. 3-16, the undersigned certifies that the following listed persons,
21 associations of persons, firms, partnerships, corporations (including parent corporations) or other
22 entities (i) have a financial interest in the subject matter in controversy or in a party to the
23 proceeding, or (ii) have a non-financial interest in that subject matter or in a party that could be
24 substantially affected by the outcome of this proceeding: Agilent Technologies, Inc. and
25 Koninklijke Philips Electronics N.V., each of which owns more than 10% of Lumileds.

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1 Dated: November 4, 2005

Respectfully submitted,

2 MORGAN, LEWIS & BOCKIUS LLP

3
4 By 
Andrew J. Wu

5 Attorneys for Plaintiff
6 Lumileds Lighting U.S., LLC
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